

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

**JAMES P. KARTELL,**  
**Petitioner**

**Civil Action No. 04-10917-WGY**

**v.**

**BRIAN BURGWINKLE,**  
**Respondent**

**RESPONDENT'S MOTION FOR ENLARGEMENT OF TIME TO FILE  
A MOTION TO DISMISS WRIT OF HABEAS CORPUS**

The respondent, through counsel, hereby respectfully requests that this Court grant him an enlargement of time within which he must file his motion to dismiss the petition for a writ of habeas corpus until June 25, 2004. In support of the motion, the respondent states that, due to the press of a number of other matters, including; appearing for a hearing in Hampshire Superior Court in the case of *Delman v. Garvey*, HSCV2004-00111, on June 8, 2004; preparing and filing, on June 4, 2004, an opposition to discovery and memorandum opposing the granting of equitable tolling in *Lindenberg v. Verdini*, No. 03-40267-DPW; and on May 18, 2004, filing a motion and memorandum in support to require petitioner to file a habeas corpus petition conforming with Habeas Rule 2 in *Tavares v. O'Brien*, No. 04-CV-40059-NMG.

The undersigned assistant attorney general requires the additional time to prepare an adequate motion to dismiss for failing to exhaust state court remedies, and memorandum in support, in this action.

Respectfully submitted,

THOMAS F. RILEY  
ATTORNEY GENERAL

/s/ Daniel I. Smulow  
Daniel I. Smulow, BBO 641668  
Assistant Attorney General  
Criminal Bureau  
One Ashburton Place  
Boston, Massachusetts 02108  
(617) 727-2200 ext. 2949

Dated: June 11, 2004

**CERTIFICATE OF SERVICE**

I, Daniel I. Smulow, hereby certify that on June 11, 2004, I served a true copy of this document by first class mail to: Michael J. Traft, Esq., Carney & Bassil, 20 Park Plaza, Suite 1405, Boston, MA 02116.

/s/ Daniel I. Smulow

**Certificate of Compliance with Local Rule 7.1(A)(2)**

I, Daniel I. Smulow, hereby certify that I telephoned Attorney Michael J. Traft this morning but was unable to confer with him because he was out of the office for the day.

/s/ Daniel I. Smulow